

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-103-00142D

Parcel No. N0851-04D

Furniture Row USA,

Appellant,

vs.

City of Davenport Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on July 18, 2016. Zach Homyk, Ryan LLC, Chicago, Illinois, represented Furniture Row USA. Attorney Theodore Craig, Dickinson, Mackaman, Tyler, and Hagen, PC, Des Moines, Iowa represented the Board of Review.

Furniture Row is the owner of a commercial retail center located at 4601 Elmore Avenue, Davenport. It was built in 1999 and has 100,234 square feet of gross building area (GBA). It also has two loading docks, multiple canopied areas, exterior lighting, fencing, and 123,000 square-feet of paving. The site is 8.312 acres. The property's January 1, 2015, assessment was \$7,289,800, allocated as \$1,475,100 in land value and \$5,814,700 in improvement value. Furniture Row's protest to the Board of Review claimed the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b).

The Board of Review denied the petition. Furniture Row then appealed to PAAB.

Findings of Fact

Zach Homyk testified on behalf of Furniture Row. Furniture Row believes that recent sales of comparable retail properties support a value for the subject property of

\$4,010,000. It submitted four sales it considered comparable for a market value analysis. (Ex.1). The following chart summarizes the sales.

Address	Year Built	Gross Building Area (GBA)	Site Size (Acres)	Sale Price	Sale Date	SP/SF
Subject	1999	100,234	8.32	N/A	N/A	N/A
1 - 2701 Devils Glen Rd	1998	56,463	5.47	\$2,300,000	Apr-12	\$40.73
2 - 4800 Elmore Ave	1998	147,000	10.48	\$6,250,000	Dec-14	\$42.52
3 - 1320 W Kimberly Rd	1987	79,431	7.2	\$950,000	Jan-14	\$11.96
4 - 3616 W Kimberly Rd	1977	86,448	9.69	\$1,535,000	Active	\$17.76

Comparable 4 was an active listing when Furniture Row completed its analysis. It has since sold, in June 2015, for \$1,267,000, or \$14.75 per-square-foot. (Ex. F).

Homyk asserts the sales price per-square-foot of the comparable properties demonstrates the subject is over assessed. However, the sales are not adjusted for differences between them and the subject property. To account for this fact, Homyk explained he reconciled to the upper end of the range at \$40.00 per-square-foot, or \$4,010,000, for the subject property.

Furniture Row did not offer any other evidence of the fair market value of its property.

Furniture Row also submitted three properties it asserts demonstrate the subject is not equitably assessed. However, an equity claim is not properly before PAAB. See §441.37A(1)(b). For this reason, we decline to consider this evidence.

Joe Vargas, a commercial appraiser with the City of Davenport Assessor's Office testified for the Board of Review. Vargas explained that he developed the cost approach and it was primarily relied on to value the subject property for its 2015 assessment. (Ex. E). Vargas testified the subject was located on a high traffic artery, which positively impacts its site value.

Regarding the properties Furniture Row submitted, Vargas testified all were vacant at time of sale and do not reflect the value of the subject property in its current use as an operating retail center. He notes that Comparable 2 is located farther off of Elmore on a frontage road with less visibility from the main artery, making it an inferior location compared to the subject. Comparable 3 was a light manufacturing facility and

after it was purchased it was subdivided into three parcels and sold separately. In Vargas' opinion, this comparable is also in an inferior location. Comparable 4 was a mini-storage facility compared to the subject's retail space. For these reasons, Vargas does not consider the properties similar for comparison.

The Board submitted three comparable sales it considered comparable to Furniture Row. (Ex. F). The following chart summarizes the sales.

Comparable	Sale Price	Sale Date	Gross Building Area (GBA)	SP/SF
Subject	N/A	N/A	100,234	N/A
1 - Staples	\$8,934,980	Jun-2015	62,329	\$143.35
2 - Best Buy	\$4,790,000	Oct-2014	46,080	\$103.95
3 - Spring Village	\$4,150,000	Aug-2015	81,264	\$51.08

Comparables 1 and 2 are located on the same street as the subject property, within blocks of each other; Comparable 3 is located approximately two miles from the subject. Like Furniture Row's comparable properties, these were unadjusted compared to the subject property; for this reason we give them no consideration.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); see also *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if

it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

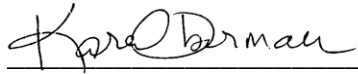
Furniture Row submitted four sales to support its claim of over assessment. However, the sales had inferior locations, were vacant buildings at the time they sold, and were unadjusted for differences. We do not find the unadjusted sales to be reliable indicators of the fair market value of the subject property. Furniture Row did not submit any other evidence to demonstrate the property's assessment exceeds its market value.

Order

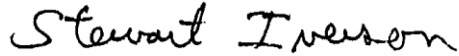
IT IS THEREFORE ORDERED that the City of Davenport Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this day 28th day of July, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair

Copies to:

Zachary Homyk by eFile

Theodore Craig by eFile